

Assembly Bill No. 1572

Passed the Assembly May 5, 2014

Chief Clerk of the Assembly

Passed the Senate July 3, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1569.157 and 1569.158 of the Health and Safety Code, relating to residential care facilities for the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 1572, Eggman. Residential care facilities for the elderly: resident and family councils.

Existing law provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services and makes a violation of those provisions punishable as a misdemeanor, except as specified.

Existing law requires every licensed residential care facility for the elderly, at the request of a majority of its residents, to assist the residents in establishing and maintaining a resident-oriented facility council. Existing law requires the council to be composed of residents of the facility and authorizes the inclusion of family members of residents of the facility on the council. Existing law authorizes the council to, among other things, make recommendations to facility administrators to improve the quality of daily living in the facility and negotiate to protect residents' rights with facility administrators. Existing law authorizes the assessment of specified civil fines for violations of this provision.

This bill would instead require every licensed residential care facility for the elderly, at the request of 2 or more residents, to assist the residents in establishing and maintaining a single resident council, as specified. The bill would authorize family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others to participate in resident council meetings and activities at the invitation of the council. The bill would authorize a resident council to, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights. The bill would require facilities to respond in writing within 14 calendar days regarding any action or inaction taken in response to written concerns or recommendations submitted by the resident council. The bill would

impose certain requirements on facilities relating to the promotion of resident councils, as specified. The bill would require a facility with a resident council and a licensed capacity of 16 or more residents to appoint a designated staff liaison who shall be responsible for providing assistance to the resident council, as specified. The bill would prohibit facilities from willfully interfering with the formation, maintenance, or promotion of a resident council, as specified. The bill would require this provision to be posted in a prominent place, as specified. The bill would provide that a violation of these provisions is not a crime, but would impose a daily \$250 civil penalty for a violation of these provisions, as specified.

Existing law prohibits a facility from prohibiting the formation of a family council, which is defined to mean a meeting of family members, friends, responsible parties, or agents of 2 or more residents to confer in private without facility staff.

This bill would authorize facility personnel or visitors to attend a family council meeting only at the council's invitation and would require a facility to respond in writing within 14 calendar days regarding any action or inaction taken in response to written concerns or recommendations submitted by the family council. The bill would require a facility to provide specified notice regarding the existence of, or right to, form a family council. The bill would require a facility with a family council and a licensed capacity of 16 or more residents to appoint a designated staff liaison who shall be responsible for providing assistance to the family council, as specified. The bill would prohibit a facility from willfully interfering with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process, as specified. The bill would provide that a violation of these provisions is not a crime, but would impose a daily \$250 civil penalty for a violation of these provisions, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1569.157 of the Health and Safety Code is amended to read:

1569.157. (a) Every licensed residential care facility for the elderly, at the request of two or more residents, shall assist the residents in establishing and maintaining a single resident council

at the facility. The resident council shall be composed of residents of the facility. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others may participate in resident council meetings and activities at the invitation of the resident council.

(b) A resident council may, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights.

(c) If a resident council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to those concerns or recommendations within 14 calendar days.

(d) Facility policies on resident councils shall not limit the right of residents to meet independently with outside persons or facility personnel.

(e) Each resident council member shall be informed by the facility of his or her right to be interviewed as part of the regulatory inspection process.

(f) Facilities shall promote resident councils as follows:

(1) If a facility has a resident council, the facility shall inform new residents of the existence of the resident council. The facility shall also provide information on the time, place, and dates of resident council meetings and the resident representative to contact regarding involvement in the resident council.

(2) If a facility has a resident council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison to assist the resident council, make a room available for resident council meetings, and post meeting information in a central location readily accessible to residents, relatives, and resident representatives.

(3) If a facility does not have a resident council, upon admission, the facility shall provide written information on the resident's right to form a resident council to the resident and the resident representative, as indicated in the admissions agreement.

(4) Upon request, and with the permission of the resident council, the facility shall share the name and contact information of the designated representative of the resident council with the long-term care ombudsman program.

(g) A facility shall not willfully interfere with the formation, maintenance, or promotion of a resident council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a resident council, refusal to publicize resident council meetings or provide appropriate space for either meetings or a bulletin board, or failure to respond to written requests by the resident council in a timely manner.

(h) The text of this section with the heading “Rights of Resident Councils” shall be posted in a prominent place at the facility accessible to residents, family members, and resident representatives.

(i) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this section shall be subject to a daily civil penalty of two hundred fifty dollars (\$250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department.

SEC. 2. Section 1569.158 of the Health and Safety Code is amended to read:

1569.158. (a) A residential care facility for the elderly shall not prohibit the formation of a family council. When requested by a member of the resident’s family or the resident representative, a family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.

(b) Facility policies on family councils shall in no way limit the right of residents and participants in a family council to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.

(c) “Family council” for the purpose of this section means a meeting of family members, friends, representatives, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more residents to confer in private without facility staff.

(d) Family councils shall be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, information, and newsletters.

(e) Facility personnel or visitors may attend a family council meeting only at the family council's invitation.

(f) If a family council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to the concerns or recommendations within 14 calendar days.

(g) (1) If a facility has a family council, the facility shall include notice of the family council and its meetings to family members and resident representatives in routine mailings and shall inform family members and resident representatives of new and current residents who are identified on the admissions agreement during the admissions process or in the resident's records, of the existence of the family council, the time and place of meetings of the family council, and the name of the family council representative.

(2) If a facility does not have a family council, the facility shall provide, upon admission of a new resident, written information to the resident's family or resident representative of their right to form a family council.

(3) Upon request, and with the permission of the family council, the facility shall share the name and contact information of the designated representative of the family council with the long-term care ombudsman program.

(h) If a facility has a family council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison who shall be responsible for providing assistance to the family council and responding to written requests that result from family council meetings.

(i) A facility shall not willfully interfere with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but shall not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a family council, refusal to publicize family council meetings or provide appropriate space for meetings or postings as required under this section, or failure to respond to written requests by a family council in a timely manner.

(j) A violation of this section shall not be subject to the provisions of Section 1569.40. A violation of this section shall constitute a violation of resident rights. A facility that violates this

section shall be subject to a daily civil penalty of two hundred fifty dollars (\$250) until the violation is corrected. A violation shall be deemed to have been corrected on the date the facility submits documentation of the correction to the department if the correction is verified by the department.

Approved _____, 2014

Governor